

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREGORY J. WRENN,

Plaintiff,

v.

BOY SCOUTS OF AMERICA,

Defendant.

No. C 03-04057 JSW

**ORDER DENYING MOTION TO
LIFT STAY**

Now before the Court is the motion by Defendant Boy Scouts of America (“Boy Scouts”) to lift the stay in this action and for a new trial schedule. Having carefully reviewed the parties’ papers and considered their arguments and the relevant legal authority, and good cause appearing, the Court hereby DENIES the motion as premature. The Court has considered the parties’ pleadings, relevant legal authority, and the record in this case and finds the matter suitable for disposition without oral argument. *See* N.D. Civ. L.R. 7-1(b). Therefore, the hearing date of January 6, 2006 is HEREBY VACATED.

On November 3, 2003, this Court granted the stipulation of the parties to stay this action pending the outcome of proceedings before the Trademark Trial and Appeal Board (“Board”). The parties agreed, and the Court approved, that the action before this Court should be stayed pending a final, appealable judgment in the proceeding before the Board. The parties moved forward both with discovery and motion practice in their case before the Board. On June 28, 2005, the Board denied Mr. Wrenn’s motion for judgment on the pleadings as premature as the pleadings were not closed. In addition, the Board also noted that, having received only an

1 unsigned stipulation to stay this action, the Board found that it was prudent to suspend its own
2 proceedings as the parties were involved in a concurrent pending civil action before this Court.
3 (*See* Opp. Ex. 1 at 6.) To correct this misapprehension, on October 4, 2005, the Boy Scouts
4 filed a motion before the Board requesting that the proceedings resume there and appended for
5 the first time the stipulation and order staying this action as entered by this Court. (*See* Opp.
6 Ex. 2.) That motion, essentially for reconsideration of the Board's *sua sponte* order staying the
7 action already pending before it, is yet to be fully briefed or considered by the Board.

8 Based upon the procedural posture of the matters concerning Mr. Wrenn's claims, this
9 Court finds the current motion to lift the stay in this matter premature and DENIES the motion
10 without prejudice to refile. The stipulated stay remains in place. However, once the Board
11 has made its determination on the proceedings pending before it, the parties should so inform
12 this Court and this Court will proceed accordingly.

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14 **IT IS SO ORDERED.**

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16 Dated: December 23, 2005

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19 JEFFREY S. WHITE
20 UNITED STATES DISTRICT JUDGE
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